

Creating an offense for trafficking of persons and expanding circumstances for aggravated kidnaping

HB 59 by Wise (Van de Putte)

DIGEST: HB 59 would have created a new criminal offense called trafficking of persons. It would have been a first- or second-degree felony knowingly to transport another person or to entice, recruit, harbor, provide, or otherwise obtain another person for transport by deception, coercion, or force with the intent that the victim engage in forced labor or services or in conduct that is a crime under the public indecency statutes.

The bill also would have increased the penalty for kidnaping from a third-degree felony to a second-degree felony if the victim was exposed to a risk of serious bodily injury and would have added new circumstances to the actions that are considered aggravated kidnaping, including holding the victim to coerce a third person to perform an act, holding the victim in a condition of involuntary servitude, and abducting someone younger than 18 years old or incompetent.

GOVERNOR'S REASON FOR VETO: "House Bill No. 59 must be vetoed to avoid confusion for law enforcement, prosecutors, and courts. House Bill No. 2096 [by Pickett], which I signed, creates a new chapter in the Penal Code regarding trafficking of persons. Therefore, the similar but not identical provisions in House Bill No. 59 are unnecessary."

RESPONSE: Rep. Miguel Wise, author of HB 59, said: "I am disappointed that Gov. Perry would take an antivictim stance and continue to ignore the wishes of the Legislature in vetoing HB 59, an important piece of legislation which received overwhelming and bipartisan unanimous support both in the House of Representatives and Senate before reaching his desk.

"The passage of this legislation would have meant added protections for victims of kidnappings and aggravated kidnappings in Texas, especially when it involves young, innocent children who many times fall prey to vicious acts of violence at the hands of criminals every year. This legislation was intended to strengthen current Texas law in the Penal Code pertaining to the prosecution of and punishment for the offenses of kidnaping and aggravated kidnaping. HB 59 would have increased the penalty for kidnaping from a third-degree felony to a second-degree felony if the person abducted is exposed to a risk of serious bodily injury. Contrary to what the governor stated in his justification to veto, current Texas law does not address this matter adequately enough. Current law is so weak that it does not elaborate on the risk factor of 'serious bodily injury' at all. Furthermore, the issue is covered in current law so vaguely that it is difficult to prosecute criminals who commit such horrific crimes in Texas.

"HB 59 also expanded the definition of aggravated kidnaping to include when the person committing the crime abducted a person: 1) with the intent to hold the abducted person in a condition of involuntary servitude; 2) under 18 years of age;

or 3) who was incompetent. It also defined and set a penalty for human trafficking. Given the recent tragedies surrounding the issues of human trafficking and the increased attention on kidnaping, we can only view these vetoes as the governor, once again, choosing the route of politics over policy.

“HB 59 was intended to close gaping loopholes in current law and thus make it clear to criminals that kidnaping and human trafficking will not be tolerated in Texas, especially when children are involved. For the second time, the governor has chosen to ignore the will of the Legislature (this bill was vetoed in 2001 as well) to protect innocent children and immigrants who are simply seeking a better life. I cannot understand how Gov. Perry and his policy people would take a pro-sexual predator stance and turn a blind eye to suffering such as HB 59 would have helped to address.”

Sen. Leticia Van de Putte, the Senate sponsor, said: “As sponsor of the bill and advocate of children’s issues, I am disappointed in the veto of HB 59 by Rep. Miguel Wise, which would have provided that an aggravated kidnaping of a person is a felony of the second degree. This bill provided a punishment for the offense of kidnaping and the offense of trafficking in persons.... HB 59 was intended to close the loopholes in current law and thus make it clear that kidnaping and human trafficking will not be tolerated in Texas, especially when children or immigrants are involved.”

NOTES:

HB 59 was analyzed in Part One of the May 7 *Daily Floor Report*.